

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Armstrong	Docket No.:	ANN-F2811
Serial No.:	10/773,025	Art Unit:	2629
Filed:	February 4, 2004	Examiner:	Boddie, William
For:	Image Controller		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Applicant wishes to bring to the attention of the United States Patent and Trademark Office (“the *Office*”) the information noted on the enclosed form PTO/SB/08A that may be considered material to the examination of the above-identified application.

This Information Disclosure Statement is submitted under 37 C.F.R. §1.97(c) after the C.F.R. §1.97(b) time period, but before the mailing date of a final action, a notice of allowance, or an action that otherwise closes prosecution in the application, and it is accompanied by the statement specified in 37 C.F.R. §1.97(e) in the following paragraph.

No item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing below after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

The documents and information contained in this Information Disclosure Statement include the daily transcripts for testimony presented during the trial of the case styled: *Anascape*,

Ltd. v. Microsoft Corp., et al. pending in the United States District Court for the Eastern District of Texas, Lufkin Division and assigned civil action number 9:06-CV-00158-RC. The trial took place over seven days between May 5, 2008 and May 14, 2008. The Anascape case is a patent infringement lawsuit originally involving twelve issued U.S. patents that are related to the above-indicated United States patent application. The plaintiff, Anascape, Ltd. (“Anascape”), is the assignee of the above-referenced patent application. Anascape asserted twelve patents against Microsoft Corporation (“Microsoft”) and Nintendo of America, Inc. (“Nintendo”). Prior to trial, Microsoft settled with Anascape and was removed from the litigation. Only U.S. Patent No. 6,906,700 (“the ‘700 patent”) was at issue during the May 2008 trial.

Applicant has previously submitted extensive Information Disclosure Statements to the Office for the present application in order to provide the Examiner with the potential prior art references that were identified by defendants Microsoft and Nintendo during the Anascape litigation. Out of an abundance of caution, Applicant has also submitted the parties’ litigation briefs and motions when those papers discuss potential prior art references and claim terms that might be considered relevant to the Examiner. In the previously submitted Information Disclosure Statements, Applicant has attempted to provide the Office with all available identifying information for the cited documents. Certain information, such as dates of publication, are not known to Applicant or Applicant’s Attorney because the references were provided by defendants Microsoft or Nintendo without full identifying information.

During trial, witnesses for the respective parties testified regarding several alleged prior art references, the alleged priority date for the ‘700 patent, and alleged inequitable conduct by the inventor, Brad Armstrong. Ultimately, the jury reached an unanimous verdict that Nintendo’s Wii Classic Controller connected to a Wii Remote controller, Nintendo’s GameCube

controller, and Nintendo’s Wavebird wireless controller infringed claims of the ‘700 patent. The jury found that the asserted claims of the ‘700 patent were not anticipated and were not invalid as obvious or for failing to satisfy the written description requirement. The jury also found that the configuration of a Wii Nunchuck controller connected to a Wii Remote was not infringed by the ‘700 patent. In the inequitable conduct part of the case, the Court found that there was no inequitable conduct involved in the prosecution of the ‘700 patent or its parent, U.S. Patent No. 6,222,525.

Applicant believes that the alleged prior art information and references disclosed during the trial are cumulative of the references previously submitted to the Office for this application. For example, Nintendo’s expert witness, Mr. Robert Dezmelyk, discussed the Sony Dual Shock and Dual Shock 2 controllers, the Cyberman controller, and European patent application publication EP 0 867 212 in connection with the validity of the ‘700 patent. These references were previously identified to the Office in the Information Disclosure Statement dated March 24, 2008 along with Mr. Dezmelyk’s expert report on issues of validity and prior art.

Applicant is submitting the Anascape trial transcript in order to provide the Examiner with access to the parties’ and the witnesses’ statements and arguments regarding claim construction and interpretation, alleged prior art references, alleged priority dates, and alleged inequitable conduct. The following table is provided to assist the Examiner in finding the testimony of certain witnesses, such as the inventor (Brad Armstrong), the parties’ expert witnesses (Robert Howe, Robert Dezmelyk, and Ed Fiorito), the parties’ opening statements and closing arguments, and the testimony regarding the alleged inequitable conduct issue.

Testimony/Statements	Starting Page	
Anascape’s Opening Arguments	May 5, 2008 Transcript at	99

Testimony/Statements	Starting Page	
Nintendo's Opening Arguments	May 5, 2008 Transcript at	116
Direct Examination of Brad Armstrong (Inventor)		138
Direct Examination of Brad Armstrong, cont.	May 6, 2008 Transcript at	208
Cross Examination of Brad Armstrong		241
Redirect Examination of Brad Armstrong		378
Direct Examination of Robert Howe (Anascape's Technical Expert Witness)		388
Cross-Examination of Robert Howe		448
Cross-Examination of Robert Howe, cont.	May 7, 2008 Transcript at	507
Redirect Examination of Robert Howe		567
Recross-Examination of Robert Howe		588
Direct Examination of Robert Dezmelyk (Nintendo's Technical Expert Witness)	May 8, 2008 Transcript at	1037
Direct Examination of Robert Dezmelyk, cont.	May 12, 2008 Transcript at	1090
Cross-Examination of Robert Dezmelyk		1304
Redirect Examination of Robert Dezmelyk		1367
Recross-Examination of Robert Dezmelyk		1385
Redirect Examination of Robert Dezmelyk		1387
Direct Examination of Robert Howe (rebuttal)	May 13, 2008 Transcript at	1412
Cross-Examination of Robert Howe		1452
Redirect Examination of Robert Howe		1507
Anascape's Closing Argument		1586
Nintendo's Closing Argument		1610
Anascape's Rebuttal Closing Argument		1638
Inequitable Conduct Evidence		1648
Direct Examination of Brad Armstrong	1653	
Inequitable Conduct Case, cont.	May 14, 2008 Transcript at	1706
Direct Examination of Brad Armstrong, cont.		1707
Cross-Examination of Brad Armstrong		1741
Redirect Examination of Brad Armstrong		1780

Testimony/Statements	Starting Page	
Recross-Examination of Brad Armstrong		1809
Direct Examination of Ed Fiorito (Nintendo's Inequitable Conduct Expert Witness)		1811
Court's Ruling on Inequitable Conduct		1837
Jury Verdict		1868

Given the large number of references cited in the present application and related applications, Applicant has attempted to aid the Examiner in finding the most relevant discussion of the application, claims and references in the table above.

The present Information Disclosure Statement further includes references recently filed with or by the Office in connection with related pending patent applications and reexaminations of related issued United States Patents.

The following table is provided to identify the pending United States patent applications that are related to the present application in case such information is useful to the Examiner.

Attorney Docket No.	Pending Application Serial Number	
F2811	10/773,025	- this application
F30.1	11/150,412	
F28.1	11/241,617	
F28.2	11/241,618	
F28.3	11/240,331	
F28.4	11/240,326	
F28.5	11/240,330	
F28.6	11/240,329	
F28.7	11/240,112	
F28.8	11/240,158	
F28.9	11/240,309	
F28.10	11/240,374	
F28.11	11/241,455	
F28.12	11/240,327	
F28.13 - docket number not used		
F28.14	11/240,349	
F28.15	11/241,478	
F28.16	11/241,330	
F28.17	12/030,025	

RELATED PENDING PATENT APPLICATIONS

The following table is provided to identify the pending reexamination proceedings that are related to the present application in case such information is useful to the Examiner.

Reexamination Serial Number
90/008,490
95/000,221
95/000,224
95/000,230
90/008,379
90/008,373
90/008,480
90/008,477
95/000,223
95/000,217
95/000,222
95/000,214
95/000,225
95/000,226
95/000,220

**RELATED PENDING
REEXAMINATION
PROCEEDINGS**

Respectfully submitted,

June 26, 2008
Date

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